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UNITED STATES COURT OF APPEALS
FOR DISTRICT OF COLUMBIA CIRCUIT

U.S. Appeal Court
D.C. Circuit
333 Constitution Ave. NW.
Washington, D.C. 20001

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9-16-23

Tsunami Khan
(Brief) Col. Michael S. Owl Feather - Gorbey

vs.

22-5251

1:22-cv-02193-UNA.

Avery et.al.

Appellant Tsunami Khan's Brief & Appendix

SUMMARY OF ISSUES

issue (1) Whether Appellant Has Alleged A Pattern of Conduct placing him in imminent danger of serious physical injuries, based on his allegations of individual incidents occurring before the filing of the Complaint & before & after the filing of the Appeal, such that He is Entitled to Proceed in forma pauperas

issue (2) Whether the Court should Accept As True Appellants Allegations of Danger Where the Government seeks to Rebut those Allegations with its own Evidence. see. e.g. Asemani vs. U.S. Citizenship & Immigration Services 797 F.3d. 1069 (D.C. Cir. 2015) Noting that Courts Accept As True Allegations of Danger in support of EFP see Also, Ashcroft vs. Iqbal 556 U.S. 662, 678 (2009) (quoting) Thomby 550 U.S. at 570 the Court Assumes the Truth of Appellant's Allegations

Points & Arguments

Issue (1) we believe it's Evidently, clear, that in both of Gorbey's situations, denial of Proper - timely glaucoma, ophthalmology treatment & or medical marijuana & or denial of safety Resulting in Physical Assaults, serious bodily injuries & the denial of medical for those serious physical injuries which started at F.Bop facilities well before the Filing of the Complaint & Appeal & Continue through-out & After the Filing of the Complaint & Appeal & Actually Continue today Now some 6 (Six) VI Concurrent F.Bop Facilities, Back to Back, that in the End All target (the same identifiable Harms) only Worsening At Each facility & Each Harmful Events clearly state A Pattern of Conduct. Placing Gorbey in Physical imminent danger & or A totality of Events that Add up to Create AN overall Effect that is UNCONSTITUTIONAL & clearly satisfies 31915(g) which Repeated Events Have only been Allow & Embolded by Federal Courts misusing & Abusing 31915(g) AS A categorical Prohibitive Financial barrier (to) Deny Gorbey Any & All Access to Court. such AS Error Prior Rulings of the D.C. Cir. App. Ct. in 18-5325

(a) Glaucoma

(i) Owl Feather - Gorbey - Tsunami Khan is A Monacan Native American Indian & Decendant from Mongolia & China. Who worship Ancestral & Nature Gods & who use marijuana for life

on (A Daily basis) For Religious & medical self Healings. & Gorbey began smoking marijuana At About the Age of 7. & When He Receive this Error lengthy D.C. state sentence 2008-CF2-1552 & Was Placed in the F.Bop & Deprived of marijuana 2008-2014 He Develops glaucoma As A Result. As His Eyes Had become dependant on marijuana.

- (2) Gorbey Was Held At Fox Cumberland Md. in 2018 & Denied marijuana & Any ophthalmology care & Had to File suit in the Md. Federal Court. 18-CV-2254 & 4027

Yet. Months (After) The Filing of suit. Gorbey Was Eventually in 2019 sent to ophthalmology For Alternative medications & treatment. Where single Eye scans show because of F.Bop Delays Gorbey suffer 65% L-eye & 15% R-eye Damages see.

Exhibit (1) & (2) Copy of May 28, 2019 single Eye scans.

yet. ophthalmologist DR. Stern Maryland Vision Center seeing Adtar Singh in A Prisoner Skip Past All Alternative meds & treatment such As Pills & laser treatments that (then) may Have Help Gorbey to the most Expensive & threatful open Eye shunt Procedure that threatens Death, stroke, Heart Attack, Paralysis, loss of Eye. Blindness & A Whole list of other serious Physical bodily injuries & Requires Consent to Allow DR. Stern to Perform Any & All surgeries He deems Necessary. & itself Qualifies As An imminent Danger see. Exhibit (3) Copy of shunt Procedure Consent Form. & yet. When Gorbey Refuse To Consent.

the F.B.P deny Gorbey All Further treatment & ship Gorbey to south Carolina where he had to suffer prejudicial delays Trying to obtain treatment. While

Initially the Maryland Court had granted Gorbey leave ~~FF~~ §1915(g) on the Court's own Assessment. yet later Allow the Government to File Hundreds of Pages of Rebuttles to Revoke Gorbeys ~~FF~~ status & the Court did so in Error & Contributing to the Damages. While the 4th cir. U.S. Appeal Ct. Also maliciously Abusing §1915(g) Error claim on Appeals 19-6685 & 19-6694 that imminent danger Apply Enough to debit Gorbey for the \$505.00 Appeal Fees x 2 = \$1,010.00 yet. Did Not Apply Enag to Proceed in District Court. (to) snatch All of Gorbeys funds & Keep him indigent & subject (to) §1915(g) & itself being AN imminent danger Denying Gorbey Any & All Access to Courts & started A trend of malicious Abuses of §1915(g) Knowingly subjecting Gorbey to serious Physical Eye damages & A threat of total Blindness Which clearly satisfies §1915(g) see. Estelle vs. Gamble 429 U.S. 94, 107 (1976) Brattin vs. D.C. 463 F.3d. 3.7. (D.C. Cir 2006) Pinder vs. McDowell 619 F.Appx 565, 566-67 (8th Cir. 2015) Liner vs. Fisher 11-cv-6711, 2012 US Dist. lex. 95589 at *13 (S.D.N.Y. July 11, 2012) Brown vs. D.C. 514 F.3d 1279 (D.C. Cir. 2008)

- (3) Gorbey Arrive AT FCX Estill S.C. late 2019 & had to get US senator lindsay O. Graham Enolved just to get treatment & had to re-file in south

Eventually Gorbey was carry to Charleston, S.C. medical center where specialists agree. The Md. Recommended shut procedure was not necessary & is an imminent danger & prescribed "Emergency" laser surgery. Yet. FCI Estill staff continue to delay nurse ulmer & the HSA kept bumping Gorbey down on the surgery scheduling list until March 2020 A Tornado hit the facility & Required inmate Evacuation. & yet. instead of F Bop DSCC Designating Gorbey to one of the other 3 Available medium level facilities in S.C. in accordance with his medical hold for scheduled "Emergency" laser surgery. They Designated Gorbey to USP Lewisburg P.A. Where he Again had to Re-file & start All over Trying to obtain ophthalmology treatment but see Exhibit (4) Copy of an 5-27-20 Pennsylvania medical staff issue A Report that delays in treatment had (caused) Gorbey's glaucoma to Advance until he is now Subject to A snuff-out-syndrome to where (since then) Any physical treatment could destroy Remaining good Retinal tissue & Blind Gorbey Even faster. Yet medical staff fail to inform Gorbey of this & he did not discover it until (months) later by FOIA medical Records Request. While the South Carolina Court. maliciously Abusing §1915(g) Revoke Gorbey's WFP status granted by the magistrate Judge 0:20-cv-1116 JFA - PJG Arguing once transfer. No immediate Relief was Available & money Relief cannot Address the imminent danger & Revoke Gorbey's

IFP status & dismiss the suit when neither argument is correct.

- (a) Regardless of Gorbey's transfer, the FBOP operates & maintains some 8 medium & camp facilities in S.C. A continuous & systematic presence within the DSC. Which is more than sufficient to give RRe to general personal jurisdiction over the FBOP to provide injunctive relief.

Helicopteros Nacionales de Colombia vs. Hall 466 U.S. 408, 414-15 (1984) &

- (b) money damages would deter future similar misconduct by the FBOP & save judicial resources & would remove Gorbey from his indigent status & need to proceed IFP 3191st so he may promptly access the courts & thus cure present & future imminent dangers.

- (4) Gorbey arrive at USP Lewisburg PA. 2000 & had to re-file to get treatment & eventually was carry to Bersinger medical center where 7-7-20 single eye scans show delays had (caused) the damages to progress to 85% l-eye & 35% R-eye threatening total blindness see. Exhibit (5) & (6) copy of 7-7-20 single eye scans, showing progressing damage. on 7-20-20 Bersinger perform l-eye laser & yet never inform Gorbey of the SNUFF-OUT syndrome or ever provided Gorbey any information of possible side effects while Dr. Olson caused Gorbey serious pain applying too much laser some time later Gorbey receive his medical FOIA request & discover the SNUFF-OUT syndrome & began demanding information

on treatment side Effects & to pre-read the treatment consent forms. yet Lewisburg DR. Edinger & Geisinger DR. Olson argue they did Not normally allow (Prisoners) to Review such info. & Refused Gorbey the information.

on 10-2-20 Gorbey was seen by ophthalmologist DR. Fassero who with DR. Pigus agree the l-eye laser surgery by Geisinger was a (failure) & Pills & Drops are not helping Gorbey see. Exhibit 7 (7 Copy of that 10-2-20 Report.

Gorbey was then later taken back to Geisinger where DR. Olson 1st Error argue that the l-eye laser had amazingly help (both) of Gorbey's Eyes until Gorbey Expressly argue she had only laser the l-eye & she eventually consulted her computer to find this true she (immediately) switch up arguing the R-eye is in dire need of laser surgery seriously questioning her motives & intent. so Gorbey demanded information on treatment side Effects & to pre-read the treatment consent forms, which, DR. Olson (Refused) Gorbey so he Refuse to consent. & yet. the FPO then Refuse Gorbey Any further treatment & again ship Gorbey, while, the Scranton PA. Fed. Court also maliciously Abuse 1915(g) to deny Gorbey Any & all Court Access. 3:20-cv-806 & 3:20-cv-1713 & others. & ship Gorbey to Beckley W.Va.

- (5) Gorbey Arrived At FCI Beckley W.Va. January 2021 & Again was denied ophthalmology treatment & had to re-file US Dist. Ct. Beckley W.Va. 5:21-cv-91.

Found in All 3 Cases.

Gorbeys Was Eventually Carry To Beckley W.Va. DR. Sadat Who Agree He Was Not Qualify To Treat (Gorbeys) Advanced Condition & Admit He Sadat Had (Never Even Heard of) Any SNUFF-OUT-SYNDROME & yet Wanted To laser Gorbeys Eyes & itself being An imminent Danger see.

ANCOTA vs. PRISON Health service INC. 769 F.2d. 700, 704 (11th Cir. 1985) medical care so cursory As To Amount To No treatment At All, & deliberate indifference where. because of the substantial threat of total Blindness Allowing unqualified DR. Sadat laser Gorbeys Eyes. Gorbey Had No Reasonable choice but To Refuse To Consent & the F.Bop use that To Deny Gorbey All Further ophthalmology treatments some 18 more months went by while Gorbey Was Not Even given Routine Pressure checks. until He Was Again ship. & seriously Damaging His Eyes & threatening total Blindness

(6) Gorbey Arrive At USP Thompson Ill. & Again Was Deny Any ophthalmology care or medical matter while Beckley Federal Court Relying on Government Rebuttal the Court Allow Prison Staff To snatch & Gorbey Was never officially serve Any Copy of & clearly unable To Argue To. Revoke Gorbeys IFP status yet knowingly left the 3 debts For \$350.00 (Each) in Place! total \$1,050.00 (to) serve Gorbey Eip Covid-19 Relief Funds (to) Keep Him indigent & subject (to) §1915(g) & itself being An imminent Danger. denial of Court Access,

(6) Gorbey Arrive At USP Thompson Ill. & Again Was

Deny ophthalmology care some 9 months until Facility medical staff got Gorbey's Eye Pressures At dangerous levels on 11-16-22 optometrist DR. Tuhy wrote.

- (a) Single Eye scans show Extensive Retinal Damages due to (Poorly treated) glaucoma. see. Exhibit (8)(9)
 (c) & (d) Are. 30 Wide(H) Glaucoma Reports & 30 Wide Glaucoma Reports with VF test points (Hood Report)
- (b) severe & worsening visual field loss, severe & worsening RNFL thinning, increasing & (Poorly controlled) IOP. Exhibit (12) & (13) Copy of this Report.

Due to HR (DR. Tuhy) & others own deliberate indifference Denying Gorbey ophthalmology For 9 months on top of 18 months Earlier.

He order (URGENT) ophthalmology care set for 12-1-22 yet Gorbey never receive that treatment & Again was ship

- (7) Gorbey Arrive At usp Coleman Florida, 12-27-22 & was Not medically Assess For HR 21 Day Exam upon Arrival until 1-30-23. Where DR. in order Both, ophthalmology & optometry care, & yet still today Gorbey has Not been seen by any ophthalmologist or optometrist. While Illinois Courts & Iowa Courts slap down Gorbey's suits claiming He Fail to satisfy 1915(g) Illinois 22-CV-50160-50173, While the Iowa Court 22-CV-318 initially granted Gorbey leave, later Rely on Government Rebuttles to Revoke HR's sfp status. Gorbey Filed in Ocala Florida Fed. Court. & 1st the Court summary slap down the suit telling Gorbey to Refile 23-CV-241-BJD-PR1 claiming

Gorbey seeking to proceed ~~2~~ § 1915(g) & informing the Court of Prior Denials Was Not Enough to inform the Court of His Filing Status. So, He ~~Re-filed~~ Appeal to the 11th Cir 23-11850-J that (still today) Has never been Process. & He Re-Filed suit 22-cv-429, 440, & 459. The Court Also Summary Slap down Arguing Gorbey Fail to show How ophthalmology or medical marijuana Could Help Him. clearly Error Applying § 1915(g) (to) deny Gorbey Any & All Court Access. When Gorbey only need show that Denying Him ophthalmology & marijuana threatens Him serious physical Harm! see.

Gibbs vs. Cross 160 F.3d 962, 966-67 (3rd Cir. 1998)
Prisoner need not Alleged Actual Harm. He or she only need Allege Facts that Could (Result in) serious physical injury or death. see Also, Abdul-Akbar vs. McKelvie 239 F.3d 307 (3rd Cir. 2001)
Asemani vs. US. 797 F.3d. 1069 (D.C. Cir 2015)

Where because of this Repeated Pattern of MR conducts At 6 (Six) VI Back to Back FBop Facilities, its been (30 months) since Gorbey Has Even been Examine by Any ophthalmologist & He suffers (Ndw) 98+% L-eye & 68+% R-eye Damages & A threat of total Blindness
Stratton vs. DC. 463 F.3d 3.6 (D.C. Cir. 2006)

& thus clearly satisfying § 1915(g) while Any Physical Treatment could blind Him faster Except marijuana

Where An important Factor is (All) of these

Events are closely related as they Result in

A single identifiable Harm & may & or should be Consider by the Court. see, Advancing glaucoma. Wilson vs. Seiter 501 U.S. 294 (1991)

The supreme Court Has found Constitutional violations where multiple conditions Add up To Create A single identifiable Harm. see Also Palmer vs. Johnson 193 F.3d 346 (5th Cir. 1999)

Certain conditions that Alone do not Add up To be UNCONSTITUTIONAL. Together Add up To Create AN overall Effect that is UNCONSTITUTIONAL see Also. Martin vs. Shelton 319 F.3d 1048, 1050 (8th Cir. 2003) Pattern of misconduct satisfying 31915(g) & see Repeated Advancing glaucoma & A single Personal medical (need) for Marijuana!

therefore clearly in answering the Question of the Court this issue satisfied 31915(g)

(b) Physical Assaults & denials of medical.

- co-schneider & others
- (1) IN 2012 AT FCI OTISVILLE N.Y. Gorbey suffer serious (Head) R-WRIST. & R-Knee injuries being slam & maul on A Hard shu floor by 3 staff members while Gorbey Was Cuff - Belly chain & not Resisting. & the New York Courts slap DOWN Gorbey's Petitions
 - (2) IN 2015 AT FCI Edgefield S.C. Gorbey suffer more (Head) injuries being Punch in the Head by Lt. Atkinson. When snatching Gorbey's Religious bandana off His Head Discriminating while Again Gorbey Was in shu cuff & not Resisting & yet the Columbia S.C. slap down Gorbey's suit & Debited His Account For the Filing Fees.
 - (3) IN 2017 Gorbey Was At usp lee & Lt. Avery &

others. the (same) "Avery" listed in this suit & Appeal. Housed Gorbey with a known violent Neta gang member & let the inmate physically Assault Gorbey Fracturing Gorbey's Ribs & more & deny Gorbey medical. Where the Roanoke VA. Ct. Found imminent danger to Apply 7:17-cv-192 yet 1st later impeded the suit because Gorbey indigent (Could not) produce PRISONER TRUST ACCOUNT statement FOP staff Refuse to provide. & then (later) and Re-open the suit (without) informing Gorbey & Re-DISMIS because Gorbey had not continuously (For years) notify the Court of his change of Address in a closed case! clear proof of 4th Cir. impedings of PRISONER COMPLAINTS & Abuses of 31915(g) (to) deny Court Access.

- (3) In 2018 Gorbey was physically Assaulted by inmates at USP Hazleton W.Va. With locks on belts causing Gorbey serious face & (head) injuries & was deny all medical. While, the clarksburg Wva Fed. Ct. 18-cv-324 misapply 31915(g) At the time of Consideration instead of At the time of Filing. deliberately Prolong until Gorbey transfer & then slap down his suit.

- (4) In 2019 At FCI Cumberland Md. Gorbey was Again Attack by inmates with locks on Reaps. & yet when Gorbey use only the Force necessary to Exit the cell (While) cameras show unit staff watching & fail to keep Gorbey safe & (Gorbey) Reported it to the Lt. office. Staff Abuse Discipline (on Gorbey) Falsifying Records (to) convict & take his good time Report # 3287668

Code (201) Fighting Arguing the F. Pop does NOT Honor
 Any form of self defense Even when staff fail
 to keep Gorbey safe. Arguing Gorbey is obligated
 (to) suffer the serious physical injuries or death
 & itself being an imminent danger, yet the Md.
 Fed. Ct. misusing §1915(g) summary, slap down Gorbey's
 suit Gorbey vs. Huff. & the 3rd Cir. Scranton
 Court later Error deny Gorbey Habeas Relief
 3:20-cv-1150 the 3rd Cir. Affirm in Error on
 Appeal. 21-3082 Taking 27 days of Gorbey's good time
 (5) IN 2020 AT Fox Estill S.C. Cameras show some of
 inmates Enter Gorbey's cell to assault him (white)
 unit staff (Gorbey had just wrote up one week
 earlier for other misconducts) stood & watch & fail
 to keep Gorbey safe. & yet staff only wrote Gorbey
 up. Again Abusing Discipline Code (199) 3379061
 Gorbey was move to Pennsylvania & (multiple) due
 Process Rights were violated.

(a) No PA. UOC was conducted as require by Policy
 that Each (Warden) Afford due process & thus
 Any UOC in South Carolina was irrelevant &
 Gorbey was not given opportunity to select
 another staff rep. or given 24 hour notice of
 the (PA) OHO Hearing.

(b) Gorbey was denied his chosen staff rep & not
 given opportunity to select another one. &
 staff appointed a MR. King who openly (refuse)
 to perform staff rep duties Arguing he only had
 to stand beside Gorbey at OHO. violating §41.8.

(c) OHO chambers violated impartiality Ex parte

King
 Refuse
 collect
 + witness
 statements
 to Evidence

- (d) Gorbey defense witnesses. While lying about the staff rep. the investigating Lt. Sheffield Admitted (He) never investigated, never reviewed the cameras & never question any others involve clearly all simply abusing discipline to retaliate for Gorbey's Filings &
- (e) SIS Lt. Estill inform Otto chambers cameras (show) several other inmates involved & SIS USP Lewisburg identified at least 2 of those inmates who assaulted Gorbey that day 3-16-20 & yet Otto chambers deliberately sanction only Gorbey 90 Day P.S. 1 year loss All Privileges & 41 Day loss good time & the Bias Scranton Fed. Court slap down that Habeas As well 3:20-CV-1364 & the 3rd Cir. clowns Affirm 21-3081 being a clear farce & mockery of Justice & clear miscarriage of Justice while Gorbey's imminent danger suit 3:20-CV-806 was also slap down. Fed. Ct. Scranton. PA. openly denying Gorbey any & all access to courts & more (Head) injuries accrue.
- (6) IN 2021 AT FCI Beckley Wva. on 8-9-21 Gorbey was power slam by several staff Williams, Whit Foren, Knowford & others on a hard shu floor while cuff in back & not resisting. (causing) serious (Head) (neck) Back. l-Arm. l-Elbow. l-Wrist R-Hand + thumb fractures & nerve damage. Staff Lt. Foren. Co. (Aka Red Beard) & others trash Gorbey's sick-calls for weeks & then on 8-24-21 Gorbey caught Beckley FCS Dr. Edward doing shu chronic care visits & flag him down who evaluated Gorbey in injuries as serious &

order x-Rays & treatment & medications. yet, weeks more went by & on 9-10-21 medical staff MR. Tilley try to force Gorbey to sign medical Refusals At threat of more staff Assault on Gorbey if He Refuse to sign. yet. Gorbey did. Refuse to sign & demanded his x-Rays & treatment & tore up the Refusal forms. yet. then Tilley went back to medical & He & Nurse Mrs. King & another falsified Refusals (to) deliberately deny Gorbey treatment. yet. Gorbey continue to file & seek treatment & Neck x-Rays 6 months later show injuries & require an MRI Gorbey never got. While R-Hand x-Rays 9 months later show untreated fractures. & yet. the Beckley W.Va. Court continue to slap down Gorbey's suits Abusing §1915(g) to deny Gorbey access. & Gorbey was transfer to USP Thompson, Ill. 2022. (in Error)

- (a) In 2022 Gorbey At USP Thompson. was confronted by Capt. (Avery) once USP Lee Lt. (Avery) who immediately started subjecting Gorbey to Adverse Housing
- (b) From About 6-9-22 to 6-24-22 (Avery) & others left Gorbey in unit 602 cell 002 with mentally ill seriously violent inmate Howalsky hitting Gorbey almost daily. Gorbey personally handed (Avery) an Emergency Complaint & request for P.C. & safety yet. (Just like At USP Lee) Avery handed Gorbey the Complaint back & left Gorbey to suffer the physical Assaults & serious (Head) (Neck) Back & R-Hand injuries where (Avery) smugly stated that if Gorbey did not like his celling arrangement Gorbey could try to sue him again while

- (c) Co-Dols, Schwartz, Smith, Bouse, Grumwald, Casey, Templeton & others Also Repeatedly only laugh At Gorbey's P.C. Requests or instigated further Physical Assaults by Abusing mentally ill inmate Kolwalsky. see.

Cantu vs. Jones 293 F.3d 839, 844-45 (5th cir. 2002)

Defendants were liable & not Entitled to immunity where they Essentially orchestrated the Assaults.

Pavlick vs. Mifflin 90 F.3d 205, 208-210 (7th cir. 1996)

Affirming Damages based on Evidence that officers Actively Aided the Assault or At least Permitted it.

Boyce vs. Fairman 24 F.supp. 2d 880, 884-886 (N.D. Ill 1998)

Hill vs. Godinez 955 F.supp. 945, 949 (N.D. Ill 1997)

Deny P.C. Allowing Attack. Deliberately Indifferent

Mayoral vs. Sheahan 245 F.3d 934, 940 (7th cir. 2000)

Evidence that officer brush off Request for P.C. suggests deliberate indifference.

- (d) While Gorbey Was deny Any medical Exams or treatment by Nurse Rost & others for these Repeated Kolwalsky Assaults

- (e) ON 6-28-22 (Avery) Had Gorbey moved in with yet Another mentally ill seriously violent inmate Riggs & ON 7-13-22 Co-Dols & others Held Gorbey in Restraints outside his Cell & Let inmate Kenny Ray spit A large spray of fluids in Gorbey's face, seriously Conserning in times of Covid-19 & monkey Pox. Where Gorbey Was sick for weeks & Was deny Any medical treatment While that same day 7-13-22 Co-Dols & others let inmate Riggs Hit Gorbey in the (Head) deny Gorbey medical & Refused him P.C.

- (f) ON 8-26-22 (Avery) & SIS Staff Directed inmate

later inmate Riggs Attack Gorbey. Kick Gorbey in the R-side & Hit Gorbey several times in the (Head) with something in His Hand. Causing Gorbey more serious (Head) injuries, & Aggravating the Already Existing serious (Neck) injuries, while Riggs, mentally ill was yelling if Gorbey did not get out the cell He Riggs would Kill Gorbey. & Gorbey Press the cell Alarm some 5 Times to no Avail & Try to obtain safety From Range staff Co-Inmate Wtlo Also ignore Gorbey's Pleas, see.

Velez vs. Johnson 395 F.3d. 732, 736 (7th Cir. 2005)

Hart vs. Sheahan 396 F.3d. 887, 894 (7th Cir. 2005)

ignoring cell Alarm or Request for safety is deliberate indifference see Also. Morgan vs. DC 824 F.2d 1049, 1058 (D.C. Cir 1987) obvious Risk to safety.

Gorbey Had to Jack the Tray slot to get Attention yet #1. Mts. Graham Argue to leave Gorbey in With Riggs & let them Fight it out While Co-Dols Argue it Was time for Gorbey to learn to Fuck or Fight. & Eventually the inmates were Remove from the cell only to have Co-Dols tell inmate Riggs He Dols Was Having Riggs & Gorbey Put back in the cell & Riggs better Fuck Gorbey up. & Co-Willas & Another then Put Gorbey & Riggs back in the cell together & Remove only Riggs cuffs & let Riggs Hit Gorbey in the (Head) 2 more times

While Co-Willas & Dols Argue that's what sex offenders get At vsp Thompson When Gorbey is not A sex offender

- (g) Gorbey was move to 603 cell 036 where He immediately Press the cell Alarm for medical twice to no Avail. While Gorbey suffer visible serious (Head) injuries & the serious (neck) injuries repeatedly aggravated

An MRI to determine the extent of those injuries while eventually on with any next blow could paralyze Gorbey & yet for weeks more Gorbey's sick-calls were ignored by several medical staff.

(h) ON 8-30-22 Co-pols try to force Gorbey back in a cell with Riggs & Abuse Discipline on Gorbey for requesting P.C.

(i) ON 8-30-22, 8-31-22, 9-1-22, 9-6-22 Gorbey submit sick-calls & yet Co-spencer was directing medical staff to ignore Gorbey's sick-calls & nurses Mrs. Schwartz & Mr. Ross did just that

(j) Eventually some 16 days later Gorbey was seen by R.N. Mrs. D. Heinzen who recorded possible concussion. Fracture upper R-Jaw. Busted R-ear leaking blood & fluid & serious swelling & bruizing. yet no treatment was ever provided 9-11-22 or after.

(k) some 3 more times staff try to force Gorbey back in cells with inmate Riggs A known Assailant & on 12-1-22 Co-White & Fulmer took Gorbey to H-unit cell 007 & try to physically force & lock Gorbey in the cell with inmate Riggs. Where. Here it's the mental & emotional strain & stress of staff physically trying to lock you in & leave you with A known Assailant mentally ill seriously violent inmate in on murder charges & having stab another inmate repeatedly. As well A list of other violent & mentally ill reports see Morgan vs. D.C. 824 F.2d 1049, 1058 (D.C. Cir 1987) obvious risk to safety. see also. see Exhibit (4)(a)(k) 9-11-22 Hill vs. D.C. (8-17-2017) 867 F.3d 138

A Plaintiff may recover for negligent infliction

- Putting Physical Injury if the Plaintiff was in the zone of Physical Danger & it was caused by Defendant's negligence & caused fear to his or her own safety regardless of whether Plaintiff experienced a physical impact as a direct result of Defendant's negligence.
- (L) On About 11-22-22 Gorbey saw Pt. Marsh & Reported All these (Head), (Neck) & other injuries. yet Pt. Marsh fail to do anything helpful for Gorbey. Also deny him an MRI & only prescribe 25 mg. Elevil (anti-triptoline) which provides NO assistance for serious pain or never damage see Exhibits (14)(a) to (c) the 9-11-22 medical report by R.N. O. Heinsen & Exhibit (15) copy of Pt. Marsh 11-22-22 medical report. see also Exhibit (16) copy of 7-13-22 Physical therapy report showing extensive restricted movement & loss of strength in Gorbey's l-arm & neck due to staff & inmate physical assaults & then Gorbey was ship to usp Coleman Florida.
- (M) 1st FBOP DSCC staff Error designate Gorbey to the seriously violent (SMV) usp Thompson falsifying (SMV) Referral Papers Alleging Gorbey 51 years old was only 25 years old & his non-violent FBOP discipline charges threaten everyone's lives when (SMV) placement is for recognized disruptive group or gang members who caught serious 200 or 100 level charges or took part in group demonstrations that threaten the security of a facility see p. 5
- 2nd FBOP DSCC staff knowingly Error designate Gorbey to usp Coleman where he was priorly AT in 2018 in their (RHO) P.C. Program & cannot walk G.P. (Both) of these Error Designations by DSCC Air clear inmatesangers & threaten to Gorbey's safety &

standing alone satisfy §1915(g) see.

Ross vs. United States 641 F.supp. 368, 372 (D.D.C. 1986)

Garrett vs. Ashcroft 191 F.supp. 2d. 23, 39 (D.D.C. 2002)

While Gorbey suffering Repeated 8th Amendment denials of medical & physical Assaults overcomes Any Discretionary Function FBOP OSCC may Have.

Keller vs. United States 771 F.3d 1021 (7th Cir. 2014) yet Illinois Courts Repeatedly Deny Gorbey Access

Gorbey Arrived At USP Coleman 12-27-22 & immediately inform intake SIS & unit team staff of His Prior (Rtu) Placement & threat to His safety & yet staff ignore the threat & order Gorbey to G.P.

(M) Gorbey went to G.P. As order & on March 27. 23 A.M. chow Hall Cameras show multiple inmates mobb Around Gorbey threatening Him with serious physical Assault or death if He does not pay Extortion money.

Gorbey Reported to the U. office & sought P.C. & completed the SIS work sheet clearly listing the inmates involved & listing A specific threat.

yet. SIS staff Refuse to Even Review Cameras & only went to the inmates threatful to Gorbey & Ask them if He could Return to G.P. (knowing) (those inmates) Wanting to Continue Extorting Assault or Kill Gorbey would say yes! & then SIS use that to close Gorbey's threat Assessment & Deny Him P.C. & began issuing Gorbey unjust incident Reports 3752330, 3770481 & 3782610 & taking 22 more days of His good time while they House Gorbey with yet more seriously violent mentally ill inmates threatening Gorbey to get a physical

Assaults

- (D) In June 2023 staff Place Gorbey in with inmate (AKA) (chucky) another (known) violent meta gang member with violent criminal charges & some 50 (Fifty) violent & disruptive BOP infractions & in July (chucky) began physically Assaulting Gorbey 7-5-23 Gorbey Filed An "Emergency" 48 Hour Bp9 Warden level Complaint yet staff took no Action to keep Gorbey safe, & let (chucky) continuously hit Gorbey in the (Head) (neck) Back & Arms. 7-5-23, 7-6-23 & 7-9-23, Gorbey Filed A Bp8 on 7-6-23 & yet Captain Sookale Responded staff list Gorbey & chucky as compatible on Paperwork so its ok if chucky is Assaulting him openly denying Gorbey safety. see.
- Farmer vs. Brennan 511 U.S. 825 (1994) Reasonable safety
- Hellings vs. McKinney 509 U.S. 25, 33 (1993) (quoting)
- Deshaney vs. Winnebago County 489 U.S. 189, 200 (1989)
- Morgan vs. D.C. 824 F.2d. 1049, 1058 (D.C. Cir. 1987) obvious Risk to safety.
- (P) staff vsp Coleman then Place Hostile & Aggressive inmate J. Wingfield in Gorbey's cell & staff repeatedly Abuse Discipline. Cell searches, & Placement on Paper cloths on Gorbey & Wingfield for all of Wingfield's misconducts see. For Example Report 3813889 Code (113) For (Wingfield) Possessing suboxone He Horded From the (MAT) program While Gorbey was At A legal call & not Even in the Cell, yet Receive An incident Report, see Exhibit (17) declaration by inmate J. Wingfield. 9-7-23.
- (Q) inmate Wingfield left & went Home 9-8-23 leaving (Gorbey) to Face the incident Report & staff then

on 9-8-23 moved mentally ill seriously violent inmate Gary in Gorbey's cell.

Gary was in shu cell A-117 & was moved 9-8-23 (For) Physically Assaulting his celly, & yet staff Lt. Harr & #1 Martin deliberately moved him in with Gorbey, & Gary began Physically Assaulting Gorbey Hitting him in the (Head)(neck) Back & Arms.

on 9-11-23 Gorbey Filed An "Emergency" Bp9. to the Warden 1175575-F1 staff Error Rejected on 9-14-23 telling Gorbey to File A Bp8 When FBop Policy 1330.18 Allows inmates to File "Emergency" Bp9 on safety & medical & No Bp8 informal process is Required. While this Rejection Forces Gorbey to suffer the Physical Assaults. Morgan vs. D.C. 824 F.2d.1049.1058 (D.C. Cir. 1987) obvious Risk to safety on 9-13-23 Gorbey did File A Bp8 & yet to date that has never been Answer & Continuing to Force Gorbey to suffer the Physical Assaults & injuries.

on 9-13-23 At walk through Gorbey Personally Complain to Capt. Sookoole & Requested P.C. to No Avail & Gorbey Personally Handed Warden Withers A Cap-out Requesting safety the Warden's secretary scan on Her cell phone & Email to SSS & yet Gorbey is still in the cell with Gary suffering Physical Assaults. & continuing to satisfy §1915(g)

F.Bop Prison staff are Abusing Powers in two ways.

- (1) they are misusing Gorbey with these mentally ill inmates they cannot use with anyone else

Without A serious Fight starting. Using Gorbey
Without His Consent & Against His Will to baby
sit these ill & violent inmates because (Gorbey)
won't Assault them. yet. staff are continuously
subjecting (Gorbey) to Physical Assaults & the
(mental strain) of being with people who Bug
out 24/7 yelling, slamming, banging, playing
with urine & shit. Filthy All Hours of Day & Night
& (Gorbey) cannot get 3 Hours of decent sleep & is
in such loud noisy Environment All Day & Night
with inmates that At Any given time Spaz out
& Hit. Which is Extremely Hard to Avoid in a
6'x11 Confinement cell. & there is the threat of death
by a Bugged out inmate when Gorbey does sleep.
While these spontaneous (Hittings) cause New
(Head) (Neck) Back, Arm & other Physical injuries
& seriously aggravate those already existing &
never treated. A (Conscient) Subhuman Condition
(2) staff are abusing such placements with the
Evil intent (to) cause Gorbey Physical & mental
Harms. Lt. Harr was bold enough to stop by &
laugh & ASK Gorbey How He is Enjoying His New
Cell. & Prof it's All intentional. &
All this is going on locally & (presently) while the
local local court slaps down Gorbey's suits Also
Abusing § 1915(g) see. 5:23-cv-241, BJD-PRI,
5:23-cv-429-WIF-PLR, 5:23-cv-440, 5:23-cv-
459-WIF-PRR. While (Both) the local Dist. Ct &
11th Cir. App. court impede Any Appeals Gorbey
got one Appeal docketed in June 2023 23-1850-J
that still in (4 months) has went no where & 3 other

Appeals Gorbey Filed 8-8-23 Have not yet been Process & thus the local Federal Courts Are knowingly with deliberate indifference letting all this happen & continue while they let Prison staff repeatedly Reject & return to sender Gorbey's incoming legal & personal mails & they (snatch) & impede many of Gorbey's outgoing legal & personal mails For instance see: 7022-0410-0000-6629-0333 sent to Turkish Consulate (certified mail stamp receive by usp Coleman' mailroom staff 7-27-23 yet still today Having no record in usps tracking & (proof) their snatch mail international mail no less, & see: 7022-0410-0000-6629-1392 to the U.S. Senate Judiciary Committee receive by usp Coleman' mail room staff 8-8-23 & yet still today Having no info for tracking in usps tracking system & again (proof) mails are being snatch. While recently Gorbey has been inform by Atlanta Ga. Dist. Ct. Charleston S.C. Dist. Ct. 4th Cir. Federal Courts, & D.C. Federal & Superior Court that pleadings Gorbey has sent never made it to the Courts (causing) Prejudicial Damages to Gorbey & denying him Court Access, which itself is an imminent danger as it quashes any ability Gorbey may have to seek redress & abate damages & injuries, see Exhibit (10) certified mail slips 7022-0410-0000-6629-0333 & 7022-0410-0000-6629-1392 While Again these (repeated) physical assaults & denials of medical resulting in injuries to Gorbey's (Head) (Neck) (Back) (Arms) & (Hands) & then the injuries are progressing & aggravated (repeatedly) & thus add up to be A single identifiable

Harm. & thus satisfying § 1915(g) see.

Wilson vs. Seiter 501 U.S. 294 (1991) see also:

Palmer vs. Johnson 193 F.3d 346 (5th Cir. 1999)

totality of events being unconstitutional. see,
Martin vs. Shelton 319 F.3d 1048, 1050 (8th Cir. 2003)

pattern of misconducts. see also.

Lewis vs. Sullivan 229 F.3d 526, 531 (7th Cir. 2002)

Applying § 1915(g) chimerically makes it a cruel joke
on prisoners. see also.

Asemani vs. US Citizenship & Immigration Services
797 F.3d 1069 (D.C. Cir 2015) (citing)

Williams vs. Parano 775 F.3d 1183, 1190 (9th Cir. 2015) &

Charis vs. Chappius 618 F.3d 162, 170 (2nd Cir. 2010)

see also Exhibit (4) Flep good time data sheet showing losses.

& therefore, clearly in both instances with Gorbey's
untreated Advancing glaucoma & the repeated
physical assaults & denials of medical Gorbey
suffers it is prudent for the court to review
& consider all facts before, during & after
the filing of this suit & appeal which relate
to the totality of the events & a single identifiable
harm. (Especially) subsequent events that are
related & threaten future harms!

28 USC § 1915(g) Twombly 550 U.S. at 570

issue (2) question 2 should be an easy call for anyone
reasonably minded as stated in many case laws
such as Asemani vs. U.S. 797 F.3d 1069 (D.C. Cir 2015)
Court's liberally construe & accept as true prisoner
imminent danger claims where 28 USC § 1915(g)
itself states that no 3 strike prison shall be

Afforded leave to proceed unless he or she states
An imminent danger (At the time of Filing)
§1915(g) does Not state Nor would or could it
lawfully Allow the Court to Rely on Government
Rebuttal to §1915(g) claims As then you Have
the Prisoner Fighting the Government with All
its Resources. While he or she indigent in situ
or other Extreme Conditions (Just to) Access
the Courts Placing a nearly impossible hurdle
that listed here Has Repeatedly unjustly deny
Gorby Access to Courts (causing) him damages.
He (would & should) otherwise Have been able to
Avoid, & thus denying him Access to Court.

In re Green 669 F.2d 779 (DC Cir. 1981)

Applying §1915(g) categorically or Relying on
Government Rebuttals Denies Gorby (Any & All)
Access to Court implementing §1915(g) As A clear
Prohibitive Financial barrier. see Also

Broudy vs. Mathers 460 F.3d 106, 117, 120-21 (DC Cir. 2006)

(citing) Christopher vs. Harbury 536 U.S. 403, 413 (2002)

Lewis vs. Casey 518 U.S. 343, 355 (1996) Court Access

California Motor Transport Co. vs. Trucking Unlimited

404 U.S. 508 (1972) Access to Court is Part of the

Right to Petition Protected by the 1st Amendment

Boddie vs. Connecticut 401 U.S. 371 (1971) Access to

Court is Protected by the Due Process clause & it

Requires meaningful Access. see, Also.

Chambers vs. B&O Railroad Co. 207 U.S. 142 (1907)

Access to Court Protected by the 14th Amend.

Due Process & Equal Protection clauses.

Just to Access the Court is Forcing him to Win His suit (twice) placing yet another nearly impossible hurdle on top of summary Judgment & motions to dismiss we have to fight impossible odds Just to Access the Court when it (causes) Prejudicial delays & often outright denial of Court Access, when the Supreme Court Rule that §1915(g) is design to provide (Fast & speedy) Access to Remedial statutes such as the F.T.C.A. Bivens & 1983 see.

Bruce vs. Samuels 136 S.Ct. 627 (2016)

Like (Here). This suit & Appeal was filed in 2022 & yet here its nearly 2024 & Gorbey is still fighting (Just to) Access the Court & has suffer a list of (Additional Damages) & dangers because of the delays which continue progressing, that, he (should have) been able to Abate or Avoid by his initial Filing see. Lewis vs. Sullivan 279 F3d 526, 531 (7th Cir. 2002)

Applying §1915(g) chimerically makes it A cruel joke on prisoners & Forces them to suffer physical injuries they seek to Avoid. Lewis 279 F3d. at 531 see. Also. Ashcroft vs. Iqbal 556 US 662, 678 (2009) & Thomby Gibbs vs. Cross 160 F.3d 962, 966-67 (3rd Cir. 1998)

A prisoner need only Allegue Facts that (could) Result in serious physical injury or death.

No Actual injury need occur & he does not need to Fight Government Rebooths. As (the Court) may only Review what the Prisoner Alleges At the Time of Filing. & to do otherwise is clearly an Abuse & misApplication of §1915(g) & Places An Extremely High Burden on the Prisoner. see. Ciarapaglino vs. Salini 352 F3d 328 (7th Cir. 2003) §1915(g)

Considerations is not the proper vehicle for determining the merits of the suit. see Also.

Erickson vs. Pardus 551 U.S. 89 (2007)

Courts are to liberally construe & accept as true Prisoner Filings see Also.

Haines vs. Kerner 404 U.S. 519 (1972)

Pro-se pleadings & complaints however inadequately pleaded, must be held to a less stringent standard than formal pleadings drafted by lawyers. They are to be liberally construed & accepted as true.

We cannot fulfill that goal when relying on any Government Rebuttal! For then he or she must plead & re-plead his (allegations) related to imminent danger that then must be (proven) & are no longer allegations as then any Prisoner who overcomes Government Rebuttals should then have already won his suit! As he is then proving all facts claimed in his suit, & therefore, it's not legal or logical for the Court to consider Government Rebuttals when deciding if a Prisoner's allegations state an imminent danger. & therefore Gorbey (Tsunami Khan) has clearly satisfy § 1915(g) overwhelmingly in this case. see Also Exh (19) good time data sheet.

Relief sought

- (1) I Tsunami Khan (chief) owl Feather - Gorbey seek Remand to Dist. Ct. for further proceedings on the merits of my suit with an order granting me leave to proceed § 1915(g) on (Both) my glaucoma & physical assault failure to protect & denial of marijuana & medical issues.

- (2) I (chief) owl Feather - Gorbey (Tsunami Khan) seek oral Arguments Necessary to Adequately defend my Appeal & seek An order to be brought to Court to personally defend my Appeal. As Amicus Attorneys Are Not (my) lawyers! & cannot stand in on my behalf!!

Tsunami Khan
(chief) owl Feather - Gorbey
Northern Rock-Tree manauk-monacan
cheromanche - skavious - manaukishone nation
Native America

Reply to.

Michael S. Gorbey
33405-013
USP Coleman 1 PC Box 1033
Coleman, Florida 33521

certificate of service

I Gorbey Certify 9-16-23 I sent A copy by
1st class U.S. mail to U.S. Att. Off. 601 D St
N.W. Washington, DC. 20530

Tsunami Khan
(chief) owl Feather - Gorbey
33405-013

Declaration of mailing §1746 9/3/621

I Gorby declare 9-16-23 I deposit this Brief, Appendix & Exhibits in usps Coleman internal mail system 1st class U.S. mail to clerk US App. Ct. DC, Cir. 333 Constitution Ave. NW, Washington DC. 20001

Tsunami Khan
(chief) owl Feather - Gorby

Appendix

- Exhibit (1) May 28, 19 l-eye single Eye scan 65% Damage.
- Exhibit (2) May 28, 19 R-eye single Eye scan 15% Damage
- Exhibit (3) Consent form for threaded shunt procedure.
- Exhibit (4) 5-27-20 Report for snuff-out-syndrome
- Exhibit (5) 7-7-20 l-eye single Eye scan 85% Damage progressing
- Exhibit (6) 7-7-20 R-eye single Eye scan 35% Damage progressing
- Exhibit (7) 10-2-20 Report mit Failure, no help from pills or drops.
- Exhibit (8) 9-1-22 l-eye 30 wide (H) glaucoma Report
- Exhibit (9) 9-1-22 R-eye 30 wide (H) glaucoma Report
- Exhibit (10) 9-1-22 l-eye 30 wide Glaucoma Report VF test (Good Report)
- Exhibit (11) 9-1-22 R-eye 30 wide Glaucoma Report VF test (Good Report)
- Exhibit (12) 11-16-22 optometry Report by DR. Taky. (URGENT care)
- Exhibit (13) 11-16-22 optometry Report by DR. Taky (URGENT care)
- Exhibit (14) 9-11-22 Report RN. O. Heinsen serious Head injuries
- Exhibit (15) 9-11-22 Report RN O. Heinsen serious Head injuries 11-22-22 Report ^{c. marshy}
- Exhibit (16) 7-13-22 physical therapy Report Lynnette Jones
- Exhibit (17) 9-7-23 declaration by inmate J. Windfield 90809-083
- Exhibit (18) 7-27-23 48-8-23 certified mail Receipts ⁷⁰²²⁻⁰⁴¹⁰⁻⁰⁰⁰⁻⁶⁶²⁹⁻⁰³³⁵
⁷⁰²²⁻⁰⁴¹⁰⁻⁰⁰⁰⁻⁶⁶²⁹⁻¹³⁹²
Tsunami Khan
- Exhibit (19) Good time
Worksheet (chief) owl Feather - Gorby

DECLARATION UNDER PENALTY OF PERJURY

The undersigned declares under penalty of perjury that he/she is the plaintiff in the above action, that he/she has read the above complaint and that the information contained in the complaint is true and accurate. Title 28 U.S.C. § 1746; 18 U.S.C. § 1621.

Executed at USP Coleman, Fla on 9-16-23
(Location) (Date)

Tsonami Rttan
(Chief) Owl Feather - Gorbey
Your Signature

- ① Totality of the Events & Pattern of Misconducts
Wilson vs. Seiter 501 US 294 (1991)
Palmer vs. Johnson. 193 F3d 346 (5th Cir. 1999)
Martin vs. Skelton 314 F3d 1048, 1049 (8th Cir. 2003)
William vs. Paramo 775 F3d 1183, 1190 (9th Cir. 2015)
Charis vs. Chappius 618 F3d. 162, 170 (2nd Cir. 2019)

- ② liberally construe & accept as true prisoner pleadings without Government Rebuttal.

Asemani vs. U.S. 797 F3d 1069 (D.C. Cir 2015)
 Alam vs. Miller Brewing Co. 709 F3d. 662-665-66 (7th Cir. 2013)
 Ashcroft vs. Iqbal 556 U.S. 662, 678 (2009) (quoting)
 Twombly 550 U.S. at 570
 Erickson vs. Pardus 551 U.S. 89, 94 (2007)
 Haines vs. Kerner 404 U.S. 519 (1972)

14-11137 @ B-2 sam-gou
Director Protect of Authority

ON 10-26-22 DC Superior Court Judge
Wingo in Compassionate Release Proceedings
2008-CF2-1552 Found Gorbey's glaucoma to
qualify as a debilitating serious medical
condition for which he will not recover

(citing)

United States vs. Givens, 2003 FEI 000497 (DC Super. Ct
Jan. 14, 2022)

28 USC § 1746

TSUNAMI KHAN - Gorbey declares 9-16-23 the
facts here true & correct to the best of my knowledge

TSUNAMI KHAN
(Chief) Col. Michael S. Owl Feather - Gorbey
Northern Rock-Tree Manauk - Monacan
Cheromanche - Iroquois - Manaukishone Nation
Native America

Michael S. Gorbey
33405-013
USP Coleman 1 po Box 1033
Coleman, Florida 33521

Filed: 09/26/2023

Document #2019291
2-5251

Michael S. Gorbey
33405-013
Federal Correctional Complex (Pen 1)
United States Prison
PO Box 1033
Coleman, Florida

33521

(Legal-special mail)

(Open only in presence of
Gorbey or the D.C. US App
Court clerk)



clerk of Court
U.S. Court of Appeals
D.C. Circuit

333 Constitution Ave. N.W.
Washington, D.C. 20001

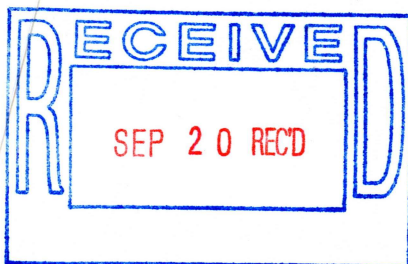
F.C.C. COLEMAN
MAIL ROOM
846 N.E. 54TH TERR
COLEMAN, FLORIDA
33521

THE ENCLOSED LETTER WAS
PROCESSED THROUGH SPECIAL
MAILING. THE LETTER HAS BEEN
NEITHER OPENED OR INSPECTED.
IF THE WRITER RAISES A QUESTION
OR A PROBLEM OVER WHICH THIS
FACILITY HAS JURISDICTION, YOU
MAY WISH TO RETURN THE MAIL
FOR FURTHER INFORMATION OR
CLARIFICATION. IF THE WRITER
ENCLOSED CORRESPONDENCE
FOR FORWARDING TO ANOTHER
ADDRESSEE, PLEASE RETURN THE
ENCLOSURE TO THE ABOVE
ADDRESSEE.

DATE



MAIL ROOM STAFF



legal - special mail